

AMENDED IN SENATE MARCH 1, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 43

Introduced by Senators Alpert, Battin, Morrow, and Peace
(Coauthors: Assembly Members Bates, *Kehoe*, La Suer, Vargas,
Wayne, Wyland, and Zettel)

February 9, 2001

An act to amend Section 332.1 of the Public Utilities Code, relating to public utilities, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Alpert. San Diego Gas and Electric Company: rates.

(1) The Public Utilities Act requires the Public Utilities Commission to establish a ceiling of \$.065 per ~~kilowatt hour~~ *kilowatthour* on the energy component of electric bills for residential, small commercial, and lighting customers of the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000, as prescribed. The commission may extend the ceiling through December 2003, as specified. Existing law requires the commission to determine that portion of each existing electrical corporation's retail rate effective on January 5, 2001, that is equal to the difference between the generation related component of the retail rate and the sum of the costs of the utility's own generation, qualifying facility contracts, existing bilateral contracts, and ancillary services, to be known as the California Procurement Adjustment. Existing law requires the commission to further determine the amount of the California Procurement

Adjustment that is allocable to the power sold by the Department of Water Resources, which is payable by each electrical corporation to the department for deposit in the Department of Water Resources Electric Power Fund, and known as the Fixed Department of Water Resources Set-Aside.

This bill would require the commission to also establish a frozen rate of \$.065 per ~~kilowatt-hour~~ *kilowatthour* on the energy component of electric bills for all customers of the San Diego Gas and Electric Company not subject to the ceiling imposed by existing law, through December 31, 2002, retroactive to February 7, 2001. The bill would require the commission to adjust the California Procurement Adjustment and the Fixed Department of Water Resources Set-Aside for those customers, as prescribed. The bill would make a related statement about the construction of the bill. Since a violation of a rule or order of the commission is a crime, this bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~ ^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 332.1 of the Public Utilities Code is
 2 amended to read:
 3 332.1. (a) (1) It is the intent of the Legislature to enact Item
 4 1 (revised) on the commission's August 21, 2000, agenda, entitled
 5 "Opinion Modifying Decision (D.) D.00-06-034 and
 6 D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas
 7 and Electric Company," as modified below.
 8 (2) It is also the intent of the Legislature that to the extent that
 9 the Federal Energy Regulatory Commission orders refunds to
 10 electrical corporations pursuant to their findings, the commission
 11 shall ensure that any refunds are returned to customers.

(b) The commission shall establish a ceiling of six and ~~five-tenth~~ *five-tenths* cents (\$.065) per ~~kilowatt-hour~~ *kilowatthour* on the energy component of electric bills for residential, small commercial, and street lighting customers of the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000. If the commission finds it in the public interest, this ceiling may be extended through December 2003 and may be adjusted as provided in subdivision (d).

(c) The commission shall establish an accounting procedure to track and recover reasonable and prudent costs of providing electric energy to retail customers unrecovered through retail bills due to the application of the ceiling provided for in subdivision (b). The accounting procedure shall utilize revenues associated with sales of energy from utility-owned or managed generation assets to offset an undercollection, if undercollection occurs. The accounting procedure shall be reviewed periodically by the commission, but not less frequently than semiannually. The commission may utilize an existing proceeding to perform the review. The accounting procedure and review shall provide a reasonable opportunity for San Diego Gas and Electric Company to recover its reasonable and prudent costs of service over a reasonable period of time.

(d) If the commission determines that it is in the public interest to do so, the commission, after the date of the completion of the proceeding described in subdivision (g), may adjust the ceiling from the level specified in subdivision (b), and may adjust the frozen rate from the ~~level~~ *levels* specified in subdivision ~~(e)~~ *(f)*, consistent with the Legislature's intent to provide substantial protections for customers of the San Diego Gas and Electric Company and their interest in just and reasonable rates and adequate service.

(e) For purposes of this section, "small commercial customer" includes, but is not limited to, all San Diego Gas and Electric Company accounts on Rate Schedule A of the San Diego Gas and Electric Company, all accounts of customers who are "general acute care hospitals," as defined in Section 1250 of the Health and Safety Code, all San Diego Gas and Electric Company accounts of customers who are public or private schools for pupils in kindergarten or any of grades 1 to 12, inclusive, restaurants,

1 *shopping centers, and all accounts on Rate Schedule AL-TOU*
2 *under 100 kilowatts.*

3 ~~(e)~~

4 (f) The commission shall establish ~~a~~ *an initial* frozen rate of six
5 ~~and five-tenth~~ *five-tenths* cents (\$.065) per ~~kilowatt-hour~~
6 *kilowatthour* on the energy component of electric bills for all
7 customers of the San Diego Gas and Electric Company not subject
8 to subdivision (b), ~~through December 31, 2002, retroactive to~~
9 ~~February 7, 2001. If the commission finds it in the public interest,~~
10 ~~this rate may be extended through December 2003 and may be~~
11 ~~adjusted as provided in subdivision (d). The~~ *for the time period*
12 *ending with the end of the rate freeze for the Pacific Gas and*
13 *Electric Company and the Southern California Edison Company*
14 *pursuant to Section 368, retroactive to February 7, 2001. The*
15 *commission shall consider the comparable energy components of*
16 *rates for comparable customer classes served by the Pacific Gas*
17 *and Electric Company and the Southern California Edison*
18 *Company and, if it determines it to be in the public interest, the*
19 *commission may adjust this frozen rate, and may do so, retroactive*
20 *to February 7, 2001. The* commission shall adjust the California
21 Procurement Adjustment and the Fixed Department of Water
22 Resources Set-Aside determined pursuant to Section 360.5 for
23 customers subject to this subdivision to reflect a retail rate
24 consistent with the rate ~~of six and five tenths cents (\$.065) per~~
25 ~~kilowatt-hour~~ *for the energy component of electric bills as*
26 *determined in this subdivision*, in place of the retail rate in effect
27 on January 5, 2001. This section shall be construed to modify the
28 payment provisions, but may not be construed to modify the
29 electric procurement obligations of the Department of Water
30 Resources, pursuant to any contract or agreement in accordance
31 with Division 27 (commencing with Section 80000) of the Water
32 Code, and in effect as of February 7, 2001, between the
33 Department of Water Resources and San Diego Gas and Electric
34 Company.

35 ~~(f)~~

36 (g) The commission shall institute a proceeding to examine the
37 prudence and reasonableness of the San Diego Gas and Electric
38 Company in the procurement of wholesale energy on behalf of its
39 customers, for a period beginning at the latest on June 1, 2000. If
40 the commission finds that San Diego Gas and Electric Company

1 acted imprudently or unreasonably, the commission shall issue
2 orders that it determines to be appropriate affecting the retail rates
3 of San Diego Gas and Electric Company customers including, but
4 not limited to, refunds.

5 SEC. 2. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

14 SEC. 3. *This act is an urgency statute necessary for the*
15 *immediate preservation of the public peace, health, or safety*
16 *within the meaning of Article IV of the Constitution and shall go*
17 *into immediate effect. The facts constituting the necessity are:*

18 *In order to mitigate the high energy costs for large consumers*
19 *such as schools and businesses, due to the energy situation of 2001,*
20 *it is necessary that this act take effect immediately.*

